



## *City of Miami Springs, Florida*

The Miami Springs City Council held a **REGULAR MEETING** in the Council Chambers at City Hall on Monday, October 27, 2003, at 7:00 p.m.

### **1. Call to Order/Roll Call**

The following were present:

Mayor Billy Bain  
Councilman Eric Elza  
Councilman Peter Pacheco  
Councilman Rob Youngs

Absent:

Vice Mayor Jim Caudle

Also Present:

Acting Asst. City Mgr./Chief of Police H. Randall Dilling  
City Attorney Jan K. Seiden  
Finance Director Charles G. Marshall  
Human Resources Director Loretta M. Boucher  
City Planner Richard E. Ventura  
Public Services Director Denise Yoezle  
Downtown Administrator Octavien A. Spanner  
City Clerk Magalí Valls

### **2. Invocation:** Mayor Bain offered the invocation.

**Salute to the Flag:** The audience participated.

### **3. Awards & Presentations:**

#### **3A) Presentation of Certificates of Recognition to the Winners of the 2003 Springs River Festival Art and Writing Contests**

Lara Loucks, Springs River Festival Art and Writing Contest Coordinator, presented savings bonds to the winners of the 2003 Student Art and Writing contest.

Mayor Bain presented Certificates of Recognition to recognize the student's efforts and participation in this year's contest.

**3B) Presentation of Award by the Springs River Festival Chairwoman to City Employee Raul Rodriguez in Recognition of his Many Years of Service to the Festival**

Juanita Garcia, 2003 Springs River Festival Chairwoman, presented an award to Raul Rodriguez to recognize his many years of service to the Festival through the City's Public Works Department. She also recognized Bill Wilson, Thomas Nash, and Herbert Ellis for their work and support during the Festival.

**3C) Introduction of Mr. Martin L. Marquez and Mr. Ramon Valdes, the First Two Architects Appointed to the Architectural Review Board**

Ramon Valdes, resident since 1992, stated that his office is in the City of Miami Springs, and he is a licensed architect and contractor in the State of Florida.

Martin Marquez, twenty-five year resident of Miami Springs, stated that he has a Master's Degree in Architecture, and he is licensed in the state of Florida, Georgia, and North Carolina.

**4. Open Forum:**

**Golf Course Bond Referendum**

Jack Odin of 1295 Thrush Avenue asked if the City is going to inform the public about the upcoming November 18, 2003 bond referendum, which is going to cost the City an additional \$80,000. He said that when the City purchased the Golf Course, they informed the public by sending out informative flyers to the residents.

**FDOT Bridge Renovation Project**

Jack Odin inquired when the bridge renovation and landscaping project between the two bridges on Canal Street would be finished. He asked the Administration to provide an update on the status of the project.

**Le Jeune Road Flyover**

Jack Odin stated that the Le Jeune Road Flyover project is underway, and he would like to know what the Florida Department of Transportation is proposing to do with the triangular portion of land where the former Shell Service Station was located.

## **Church Parking Agreement**

Jack Odin stated that he has not heard anything about the parking agreement that former City Manager Maria V. Davis was negotiating with the Miami Springs Baptist Church to improve a portion of their parking lot that would be available for public use.

## **Golf Course Financials**

Jack Odin stated that the last time Council received the Golf Course financial report was in July. He wanted to know when the next report would be available.

## **Golf Course Bond Referendum**

Councilman Eric Elza suggested taking immediate action to inform the public about the upcoming Golf Course Bond Referendum on November 18, 2003.

## **Charter Amendment Questions**

Martin Marquez of 401 Hunting Lodge Drive suggested that Council should set a date to finalize the wording for the Charter amendment ballot questions.

City Attorney Jan K. Seiden informed Council that since the election is scheduled for April 2005, he has been working on other priority issues.

Councilman Elza suggested January 2005 as the date for finalizing the Charter questions.

Councilman Youngs agreed that there is no rush, as long as the suggested wording is not forgotten.

## **Community Redevelopment Block Grant Meeting**

Mr. Marquez of 401 Hunting Lodge Drive submitted documents related to a meeting he had with Mayor Bain and the Miami-Dade County Director for the Community Redevelopment Block Grant.

Councilman Elza asked how the meeting came about and why the City Manager or Downtown Administrator was not present. He pointed out that Mr. Marquez is now a member of the Architectural Review Board and that he must abide by the Code of Ethics and the Sunshine Law.

Mayor Bain explained that he attended the meeting in order to determine facts about the grant and Mr. Marquez assisted him with taking notes.

Councilman Youngs said that there is some uneasiness about the program, and he credited Mayor Bain for attending the meeting in order to find out the facts. He said there are concerns about the City advancing the \$249,000.

Councilman Youngs explained that the Mayor asked for more details about how the program works,

and Mr. Marquez suggested options that should be included in the contract, which Council could consider at the next meeting.

Councilman Elza pointed out that the City does not have a strong Mayor form of government, and it is the City Manager's duty to gather this information and bring it back to the governing body as set forth in the City Charter. He felt that the chain of command is through the City Manager or the City Attorney and they are responsible for bringing back the information to Council.

Mayor Bain said that he informed Council that he was going to meet with Commissioner Rebeca Sosa and she was very accommodating by offering information that he was not able to obtain from the Administration.

Councilman Youngs stated that the Mayor is one vote out of five on the City Council and he cannot speak for the City. He felt that it is perfectly okay for any member of Council to learn more about a particular program, but the problem is that when this happens, it could appear that that person is representing or making decisions for the City.

Councilman Youngs said that from his own perspective, it is better to gather information, as long as it is learned in the proper way. He explained that Mr. Marquez has been appointed to the Architectural Review Board and the first plan of business is to review the Façade Improvement plans.

Councilman Elza reiterated that the proper chain of command is through the City Manager's office. He felt that it was not appropriate for Mr. Marquez to represent the City by responding on his personal letterhead.

Mr. Marquez offered to resign from his position on the Architectural Review Board.

Councilman Youngs responded that there is a difference between attending a fact-finding meeting, at the request of the Mayor, in order to help the Mayor with the responsibility of making a decision on the program, and becoming an advocate by responding to the City in a letter and taking a stand before the questions were fully addressed. He said that it is dangerous to become an advocate because the independent role is lost, and there could be a possible conflict of interest when sitting on an advisory board.

Councilman Youngs thought that Mr. Marquez should have presented a report to Council during a public meeting, but instead he wrote a dramatic letter, and created a public record that was prematurely circulated.

Councilman Pacheco added that Council made the decision to accept the grant and to move forward with the funding. He said that when elected officials attend meetings, it appears that they are representing the City, and the County representative stated that if the City lacks trust in the County reimbursing the City for the program, there are many other needy communities waiting for the funds.

Councilman Pacheco was concerned that the City could lose funding because of all the questions

being asked. He agreed with Councilman Elza that the Mayor's questions should have gone through the proper chain of command.

Mayor Bain said that he asked Mr. Marquez to take notes and present a report of what transpired at the meeting. He said that he announced that he would attend the meeting, that Mr. Marquez wrote the letter, and it has nothing to do with his feelings about the program.

The Mayor emphasized that he received the answers to the questions that were not given to Council when they were asked to advance the \$249,000. He explained that if there were people in the City who could have provided the answers, he would not have attended the meeting, and he was only gathering information in order to best represent the City.

Mayor Bain felt that it was his responsibility to the residents to make sure that the \$249,000 is allocated in the proper manner and that the City is reimbursed. He stated that Mr. Marquez reported the facts, and they are not his opinions.

Councilman Youngs stated that the Mayor went to the County on a fact-finding mission and he did not go with the intention to stop the program. He said that Council voted to advance the funds, and the Mayor has the right to gather information in order to make sure the program is administered correctly.

Attorney Seiden stated that Mr. Marquez questioned certain issues in another letter that Council must deal with and this item should be placed on the next agenda.

### **City Manager Selection**

Noel Pereda of 111 Chippewa Street asked why Council selected the new City Manager strictly by what was presented on his resume. He felt the decision to hire the City Manager should have taken more time, and suggested the decision might have been made prior to the interviews. Mr. Pereda wondered why no one conducted any research on the individuals prior to making such an important decision. He said that the residents were able to access information about the candidates through the Internet and yet no one involved in the hiring decision was able to do this.

Mr. Pereda said that Mr. Kelly offered all the right answers during his interview, and he was concerned that someone from the Council had contact with him prior to the interviews. He said that he wanted to make sure all dealings were in accordance with the Sunshine Law. Mr. Pereda said that the Administration should ask the Mayor for guidance because he is a "hands on" Mayor.

Mr. Pereda asked the Human Resources Director to name the people on the selection committee who chose the finalists for the City Manager position and to state their professional background. He would like to know what the criteria was for narrowing the field of applicants, and if there was any

knowledge of the tainted backgrounds of Mr. Kelly and Mr. Drumm prior to the meeting.

Mr. Pereda asked why no background checks were conducted on the three finalists prior to the interviews.

Mr. Pereda alleged that the selection was fixed to allow one candidate to succeed by default, and since Mr. Sprovero was one of the five finalists, he would have been selected once the background checks were completed. He said that when the dust settles, Council would find that there is one very capable candidate that should have been considered from the beginning, and this is James R. Borgmann, who is experienced and capable, but not very popular.

Mr. Pereda suggested that it might be time to select another Human Resources Director. He strongly recommended that the Administration should exhaust all energies within the City boundaries when looking for qualified individuals to fill key positions. Mr. Pereda stated that the City needs individuals who share in the same city and family values, as well as an invested interest toward the betterment of the community.

Mr. Pereda said that his prior concern about the aging sewer system looks small compared to the inefficiencies in the City's accounting capabilities. He alleged that the Finance Director has over estimated and under estimated figures for as much as \$40,000, and many businesses have failed for far less financial inaccuracies.

Mr. Pereda explained that he is concerned about how the City is going to manage \$249,000 for the façade program without being aware of the process, and then complain about the Golf Course losing revenue for approximately the same amount.

### **Façade Improvement Program**

Mr. Pereda would not approve of using his tax dollars to improve the private businesses, and the Mayor was only trying to determine how long it would take the County to pay back the City after they advance the \$249,000. He said the local banks have an obligation under the Community Reinvestment Plan to provide low interest loans for local businesses when such projects are awarded for the betterment of the community.

### **Annexation**

Mr. Pereda stated that he is totally against annexation, and the City Council has no idea what is involved in the annexation areas. He questioned Council's ability to make sound decisions and he stated that he has no faith in the City's financial abilities.

### **City Manager**

Alfred Wittenberg of 107 South Royal Poinciana Boulevard stated that the person selected to be the new City Manager seems like he could run the City and terminate the employees that should be

replaced. He warned the City Council that there is a group of people who do not want the City to hire Dennis Kelly.

### **Golf Course Restaurant**

Mr. Wittenberg said that the new annual budget for the Golf Course Food and Beverage operation is \$780,000, which is costing the residents \$80.00 per plate, based on the annual loss of \$400,000.

### **City of Hialeah Redevelopment**

Mr. Wittenberg pointed out that redevelopment in the City of Hialeah is booming with a new bank, courthouse, drug store, and Publix supermarket. He added that Hialeah offers low-income housing and has a program to feed the poor, while 10% of the people in Miami Springs are living under the poverty level.

### **Council Discussion**

Mr. Wittenberg stated that there has been too much discussion at the Council meetings about cats and shutters, and these issues are not important.

### **Police Patrol**

Mr. Wittenberg said that a cashier in one of the businesses on N. W. 36<sup>th</sup> Street told him that there is no police patrol in the area.

### **Appreciation**

Dona Kelley of 830 Swan Avenue praised Public Works employee Raul Rodriguez who solved a problem with her garbage can.

### **Website**

Dona Kelley appreciates having the monthly City calendar on the website.

### **Charter Amendments**

Owen Gay of 81 Morningside Drive stated that on June 30, 2003, approximately 150 people attended a Special Meeting at the Golf Course who were interested in the proposed Charter amendments, and a petition was presented with 450 signatures.

Mr. Gay is of the opinion that this is a priority item that should be addressed soon, and there should be a specific timeframe for the preparation of the Charter Amendment questions.

## **Façade Improvement Program**

Mr. Gay asked Council to reconsider the decision that was made on October 13, 2003, to fund the Façade Improvement Program with \$249,000 of the taxpayers' money. He said that if for some reason the County would not administer the program, they should be told that Miami Springs is not interested in the grant, because the City should not be responsible for the financial overhead, and there should be no exposure to liability with respect to reimbursement from the County.

Mr. Gay said that there is no justification for the City paying the Downtown Administrator \$85,000 each year to find funds for property owners who should be fixing their own storefronts. He was of the opinion that the funds that were paid to the Revitalization Consultant could have paid for the façades of all eleven projects, and that it would be better to hire a full-time marketing person that would attract new businesses and patrons.

## **Amendment to the Zoning Code**

Bob Schwinger of 8 Canal Street asked about the rewriting of the ordinances for the Neighborhood Business District. He explained that he represents the business owners of 357 North Royal Poinciana Boulevard who could not obtain a building permit to build condominiums because the City Code had not been updated to conform to the City's Comprehensive Master Plan.

City Attorney Jan K. Seiden informed Council that the City Planner has prepared a draft, which he would review. He said that Council would then review it to determine if it meets the intent and criteria of that particular district.

To answer Mr. Schwinger's question, Attorney Seiden explained that the timeframe would depend on the action taken by the City Council, and that if the district were approved, the property owner would go before the Board of Adjustment/Zoning and Planning Board to request a parking variance and site plan approval.

## **Façade Improvement Program**

Mr. Schwinger congratulated Mayor Bain for protecting the City's finances, by going to the County to gather more information about the grant for the Façade Improvement Program.

## **Golf and Country Club**

Mr. Schwinger said that the Golf and Country Club serves dinners for \$10.00, and he would like more people in the community to support the Golf Course, instead of raising negative issues. He was of the opinion that if every resident were to purchase a meal at the Country Club that they would not have a budget problem.

## **5. Approval of Council Minutes:**

**5A) 09/22/2003 - Regular Meeting**

Minutes of the September 22, 2003 Regular Meeting were approved as written

**Councilman Youngs moved to approve the minutes as submitted and Councilman Pacheco seconded the motion. On roll call, the motion carried 3-0, with Councilman Elza abstaining. (Councilman Caudle was absent)**

**6. Reports from Boards & Commissions:**

**6A) 08/28/2003 - General Employees Retirement System - Minutes**

Minutes of the August 28, 2003 General Employees Retirement System meeting were received for information without comment.

**6B) 08/28/2003 - Police and Firefighters Retirement System - Minutes**

Minutes of the August 28, 2003 Police and Firefighters Retirement System meeting were received for information without comment.

**6C) 09/23/2003 - Ecology Board - Minutes**

Minutes of the September 23, 2003 Ecology Board meeting were received for information without comment.

**6D) 10/09/2003 - Board of Parks and Parkways - Cancellation Notice**

Cancellation Notice of the October 9, 2003 Board of Parks and Parkways meeting was received for information without comment.

**6E) 10/14/2003 - Recreation Commission - Rescheduling Notice**

Rescheduling Notice of the October 14, 2003 Recreation Commission meeting was received for information without comment.

**6F) 10/15/2003 - Education Advisory Board - Rescheduling Notice**

Rescheduling Notice of the October 15, 2003 Education Advisory Board meeting was received for

information without comment.

**6G) 10/16/2003 - Historic Preservation Board - Cancellation Notice**

Cancellation Notice of the October 16, 2003 Historic Preservation Board meeting was received for information without comment.

**6H) 10/23/2003 - Code Review Board - Cancellation Notice**

Cancellation Notice of the October 23, 2003 Code Review Board meeting was received for information without comment.

**6I) 10/29/2003 - Board of Appeals - Cancellation Notice**

Cancellation Notice of the October 29, 2003 Board of Appeals meeting was received for information without comment.

**6J) 11/19/2003 - Education Advisory Board - Rescheduling Notice**

Rescheduling Notice of the November 19, 2003 Education Advisory Board meeting was received for information without comment.

**7. Public Hearings:**

None.

**8. Consent Agenda:**

**8A) Recommendation that Council Approve an Expenditure of \$92,476.00 to Duval Ford to Purchase Four 2004 Crown Victorias, and an Expenditure of \$16,580.15 to Garber Chevrolet to Purchase One 2004 Chevrolet Impala, Utilizing the Florida Sheriffs' Association Bid Award # 03-11-0825, as Provided for in Section 31.11 (E) (5) of the City Code**

**Councilman Pacheco moved to approve the expenditure and Councilman Youngs seconded the motion.**

Acting Assistant City Manager/Chief of Police H. Randall Dilling verified that funds are included in the budget for five vehicles.

Attorney Seiden added that the City is utilizing the Florida Sheriffs' Association bid award, which is allowed under the City Code.

**On roll call vote, the motion carried 4-0.**

**9. Old Business:**

**9A) Appointment to the Golf and Country Club Advisory Board by Mayor Bain for a Full 2-year Term Ending on July 31, 2005**

Mayor Bain **appointed** Tappy Rosson to the Golf and Country Club Advisory Board for a full 2-year term ending on July 31, 2005.

**9B) Appointment to the Golf and Country Club Advisory Board by Councilman Elza (Group I) for a Full 2-year Term Ending on July 31, 2005**

Councilman Elza (Group I) **reappointed** Dr. Charles James to the Golf and Country Club Advisory Board for a full 2-year term ending on July 31, 2005.

**9C) Appointment to the Golf and Country Club Advisory Board by Vice Mayor Caudle (Group II) for a Full 2-year Term Ending on July 31, 2005**

Vice Mayor Caudle (Group II) **deferred** his appointment to the Golf and Country Club Advisory Board.

**9D) Appointment to the Golf and Country Club Advisory Board by Councilman Pacheco (Group III) for a Full 2-year Term Ending on July 31, 2005**

Councilman Pacheco (Group III) **deferred** his appointment to the Golf and Country Club Advisory Board.

**9E) Appointment to the Golf and Country Club Advisory Board by Councilman Youngs (Group IV) for a Full 2-year Term Ending on July 31, 2005**

Councilman Youngs (Group IV) **deferred** his appointment to the Golf and Country Club Advisory Board.

**9F) Discussion Regarding An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 150-016 – Off-street Parking Facilities; Paving and Drainage; Lighting; Landscaping; and Minimum Number of Off-street Parking Spaces; Off-street Parking Requirements for Single-Family Residential and Duplex Zoning Districts; by Adding Provisions Permitting the Payment of a Parking Fee in**

**Lieu of the Required Amount of Off-street Parking in the Downtown Business Area;  
Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date (First  
Reading: 02/10/2003) (Requested by Councilman Pacheco)**

City Attorney Jan K. Seiden stated that this ordinance was placed on the agenda at the request of Councilman Pacheco, and it was first discussed during the time of the Florida One Development appeals case. He explained the ordinance was drafted taking into account the previous comments.

Attorney Seiden suggested that Council should postpone discussing the ordinance until the proposed fees to be charged in lieu of parking are received from Post, Buckley, Schuh and Jernigan.

Jack Odin of 1295 Thrush Avenue asked who would determine the number of spaces in lieu of parking.

Attorney Seiden said that the Building Official and the City Planner would share the responsibility of determining how many spaces are required based upon the project. He advised Council that another consideration during the process is whether or not to roll back some of the parking requirements.

Mr. Odin said the 1990 parking study was based on N. W. 36<sup>th</sup> Street, and did not take into consideration a downtown central business district with available off-street parking. He was of the opinion that the parking standards are too high, and the associated cost would take away from the revitalization program, because the parking garage spaces range from \$10,000 to \$18,000.

Mr. Odin said that the Canal Street parking lot is one cost to consider, but eventually the lot would run out of spaces. He explained that the building at 100 Westward Drive has 4,507 square feet, and there are no parking spaces, while the current parking requirement is fifteen spaces, and if the owner were to add a second floor, the requirement would be thirty spaces. Mr. Odin stated that there are not enough parking spaces in the alley to support a variance for thirty spaces because the people who live in the apartments on Hibiscus park on the south side.

Mr. Odin stated that when considering the parking fee in lieu of the required amount of off-street parking there must be parking to service the building. He mentioned that there is no definition for the Downtown Business District, although the Comprehensive Plan defines two business districts.

Attorney Seiden pointed out that a map would be attached to the ordinance and the boundary would show if the ordinance is applicable to the property. He added that when the district boundary regulations are set, the ordinance might not be needed. He felt that the district boundary regulations should be a main priority because it is holding up development.

Councilman Elza said it would be appropriate to table the ordinance until the districts are established.

Mayor Bain asked what was the status of establishing the districts.

Attorney Seiden explained that it is an extraordinarily complex and difficult task, and if it is not done correctly, it could do severe damage. He suggested that the City Planner should have some assistance.

City Planner Richard Ventura said that he drafted the Neighborhood Business District boundary guidelines, and that he is halfway finished with the Airport/Marine/Highway Business District. He must determine the cap on maximum density for hotel, motel, apartment and condominium units, which fit into multi-family residential, and the most recent County plan provides for a maximum of 125 units per acre, which is high.

Mr. Ventura said that he did not see a need for outside help at this point, and the draft for the Airport/Marine/Highway Business District should be finished in three weeks.

Councilman Youngs requested an orientation workshop so that Council would be able to make an informed decision on the proposal.

Attorney Seiden said that a workshop would be premature at this point because he would have to review the draft, which was not an easy task.

Councilman Pacheco stressed the importance of establishing the districts and asked the City Planner to please let Council know if he needs assistance for this project.

Mr. Ventura stated that he would come back with a status report in two weeks.

**Council tabled discussion of the ordinance until additional information regarding proposed fees to be charged in lieu of parking is received from Post, Buckley, Schuh & Jernigan.**

**Council requested that the City Planner give a status report on the proposed district boundary regulations at the next meeting, since this matter should be addressed before discussion of the ordinance.**

#### **9G) Annexation Process Update (Councilman Youngs)**

Owen Gay of 81 Morningside Drive said that a few months ago a number of citizens appeared before Council to state a variety of reasons as to why they do not want annexation, and a majority of Council has decided to overlook the public input and continue the pursuit of annexation.

Mr. Gay indicated that he is 100% opposed to annexation of any of the areas being offered by the County. He does not want an additional layer of bureaucracy, expansion of staff, or additional expenses and complications from servicing the areas. He requested that Council should review the various departments to find ways to streamline, downsize, and make them more efficient.

Over the past several years, Mr. Gay has not seen evidence to suggest that the City government has

managed to run things efficiently, cost effectively or even appropriately, certainly not revitalization or the Golf Course. In no manner is he willing to accept the risk that the City government is prepared to handle the list of far more formidable challenges that annexation could present.

Mr. Gay stated that according to Section 24-57 of the County Code, the City of Miami Springs would be responsible for the cleanup of all environmental contaminants found on public lands under its domain. He would not want the landowners who are associated with the annexation areas to have a political influence in Miami Springs.

Mr. Gay was of the opinion that any given Council may not be willing or able to stop big money developers from changing land use and eventually going residential in annexation areas, thus creating a non-contiguous voting block with interests that might be totally incompatible with the City.

Mr. Gay said that the bottom line is that there are no guarantees, and the liabilities associated with annexation could far outweigh any potential gain. He felt there are better ways for the community to give tax relief, and he would not want to gamble with the future of the City. He asked Mayor Bain to poll Council for a motion to completely discontinue the pursuit of annexation.

Councilman Youngs stated that he respects Mr. Gay's opinion, they have agreed and disagreed on some issues, and to ignore annexation is to risk the future quality of life in Miami Springs. He felt that the responsible thing for Council to do is to pursue annexation, and it would be 100% negligent not to proceed.

Councilman Youngs explained that Miami Springs has one of the highest tax rates of all the municipalities in the County, and a very high residential to commercial ratio. He said that there is no land that produces a tax surplus and for every dollar gained in tax revenue it takes \$1.10 to service residential land.

Councilman Youngs said that as the cost of operating the City government increases, the City would eventually be forced to cut services without an additional tax base. The pressure to increase density will be there, and another Council will have to deal with residents who are unhappy about the tax rate, and it is essential to the quality of life for the City to have a sound financial foundation.

Councilman Elza totally agreed with Councilman Youngs, stating that annexation must now be considered. He explained that the millage rate has increased 30% over the past ten years, the cap is set at ten mills, and once it reaches that level, the City would have to cut services or find another revenue source.

Councilman Youngs explained that he did not have a preconceived position about annexation and he has been working to determine if it would be in the best interest of the City, and now he is so convinced that it is, that he wants to move forward.

Councilman Youngs said that a resolution was adopted to file an annexation application and it took a lot of hard work to come up with an appropriate legal description for the annexation. He explained

that Council must decide whether to file the application now, or delay it for some reason, and the City was advised that there would be a serious problem if the annexation area skips over the Hialeah Rail Yard, which is the issue of contention.

Councilman Youngs explained that the County guidelines require the land to be annexed to be contiguous with the City boundaries, and this is also set forth in the City Charter. He said that the legal description was amended to include the strip of land near North Royal Poinciana Boulevard where it crosses the canal and goes into 74<sup>th</sup> Street, which makes a 150-foot wide strip of contiguity.

Councilman Youngs spoke with the Florida East Coast Railroad representatives to convey the message that the City of Miami Springs does not want the Hialeah Rail Yard within its boundaries, and in order to have the FEC be in agreement with the annexation plan, the City would not oppose having the Hialeah Rail Yard designated as an area of countywide transportation concern, which they plan to apply for with the County.

Councilman Youngs said that the draft application now sets out two parcels of land, including the land that the City wants to annex, and the Hialeah Rail Yard, with the condition that the City is willing to exclude the Hialeah Rail Yard, at the direction of the County.

Attorney Seiden read the following legal description of the application:

*“The following legal description indicates the boundaries for the annexation areas. It should be noted that this description includes the area owned by the Florida East Coast Railway (FEC). The City of Miami Springs is willing to exclude this area if it is deemed that issues of contiguity will not hamper the City’s application. In addition, the City of Miami Springs is willing to work with the FEC to develop an interlocal agreement between the two parties to provide the assurances as to the function of government.”*

Attorney Seiden said the downside to the City is stronger than the downside to the FEC by inclusion, although their attorney will disagree, but the reality is that the City is not changing opinions because they are willing to exclude them, and the County Commission would make the decision.

Councilman Youngs has learned that it could be a tough fight to get the land that is deemed most advisable to annex, and if the City’s application were in some way deficient, the application would have to be amended with a series of hearings and resolutions, which could take six to eight weeks. During this time, he said that another city might annex the land, and he is not prepared to take this risk. Councilman Youngs felt that the FEC would be able to defend itself and move forward with their plan.

Councilman Youngs added that the Village of Virginia Gardens is several months ahead and their application overlaps most of the same land; in addition, they offended the FEC by declaring that the Hialeah Rail Yard would be a part of the Village.

Councilman Youngs reiterated that the City of Miami Springs will deal with any FEC issues through an interlocal agreement, but the entire plan should not be jeopardized based upon offending

sensitivities.

Mayor Bain asked if any other cities have filed annexation applications.

Attorney Seiden stated that presently no other cities have filed, except for Virginia Gardens.

To answer Mayor Bain's question, Councilman Youngs said that it is important to file the application now, because it takes at least one year, and every two weeks that goes by, is another two weeks that allows someone to object or create a problem. He felt that the City should proceed without hesitation.

Councilman Elza agreed that Council should move forward with the annexation application, per Councilman Youngs' recommendation.

**Councilman Elza moved to proceed with the annexation application, including the Florida East Coast Railroad. Councilman Pacheco seconded the motion.**

Florida East Coast Attorney Neisen Kasdin said that after extensive conversations with Councilman Youngs, and City Attorney Jan K. Seiden, he believes they are proceeding in good faith, and what they perceive to be the best interest of the City. However, with the addition of the language, the FEC will have to oppose the application.

Attorney Kasdin stated that the language in the application notes that the legal description includes land owned by the Florida East Coast Railroad. The City is willing to exclude this area if it is deemed that issues of contiguity will not hamper the City's application. In addition, the City of Miami Springs is willing to work with the FEC to develop an interlocal agreement between the two parties.

Attorney Kasdin said that the City of Miami Springs and the FEC Railroad had an understanding, and this is not the understanding. An application will proceed forward that includes a description of the boundaries, and the description of the boundaries will include the Railroad's property. He said that the application would go through the Boundaries Commission, the Planning Advisory Board, and the County Commission.

Attorney Kasdin stated that the FEC could not leave this application with this legal description intact until the eleventh hour of the eleventh day when the County Commission is considering it, and then hope that everything is resolved, and the land is pulled out.

Attorney Kasdin stated that the FEC would oppose the application until such time as there is absolute comfort that this property is excluded from the annexation petition. He explained that the Railroad could not accept the City's position because it leaves the issue unresolved until very late in the process, and this is an unacceptable risk.

Attorney Kasdin said that the City was initially prepared to proceed with an application that included all the Railroad's property, and after a series of meetings, the message was very clear, and that message was to work out the issues. He explained the FEC was able to work things out with the City of Miami Springs, but not with Virginia Gardens, and the FEC's position is to vigorously oppose Virginia Gardens' application.

Attorney Kasdin reiterated that there was an understanding that the Railroad property would be excluded from the City of Miami Springs annexation application. Notwithstanding the good intentions of the City, this is not what was first presented when they came to an understanding. They went back to the County Commission and they unanimously said the City should work out an agreement with the Railroad, and that is what they would favor, rather than having conflicting positions.

Attorney Kasdin was of the opinion that contiguity is not a legal argument. He spoke with the County Attorney, and contiguity is one of a series of guidelines within Chapter 20 of the County Code, which deals with criteria to consider in connection with annexation.

Attorney Kasdin stated that there are other criteria that argue strongly against annexation of the Hialeah Rail Yard into the City of Miami Springs or any municipality, and one is that the proposed boundaries must provide a municipal community of interest that is cohesive and inclusive.

Mr. Kasdin emphasized that the Rail Yard stands alone as one of the transportation hubs in the County, and there is nothing cohesive, inclusive or a community of interest with the Rail Yard. He pointed out that the Miami-Dade County Future Land Use Plan map has a transportation category, and the transportation category designates critical transportation facilities, including the Miami International Airport, Opa Locka Airport, Tamami Airport, Homestead General Aviation Airport, the Port of Miami, the Hialeah Rail Yard and the CSX Rail Yard.

Mr. Kasdin pointed out that there is a reason why all these areas are designated, and why they are all in unincorporated Miami-Dade County, except for the Port of Miami, and it is because they are critical countywide facilities, and there is no community of interest. With respect to these criteria, Mr. Kasdin said that it argues strongly against inclusion of the property.

According to Mr. Kasdin, Section 20 of the County Code also provides that the annexation area must be compatible with the existing land uses and zoning of the municipality that is proposing annexation. He said the only land use for the Hialeah Rail Yard is transportation, and that is the only use allowed, which is completely incompatible with the zoning in Miami Springs, the area to the west, and Virginia Gardens.

Mr. Kasdin stated that FEC was willing not to oppose the small strip of land on the northern end to allow a physical connection, but beyond that, there is no true contiguity, and there is no meaningful connection, which is not serviceable by Miami Springs. He would say that the criteria would weigh

more on the side of not including the Hialeah Rail Yard, rather than including it in the annexation application. FEC believes that the County Commission was glad when they reported that the issue was resolved.

Attorney Kasdin said that history shows that the County has dismissed the argument of contiguity as not important for much less compelling reasons. He referred to the most recent annexation of the City of Hialeah of areas to the west, which were more contiguous to the City of Miami Lakes or the City of Hialeah Gardens. Nevertheless, the County found it was appropriate that those areas be annexed into the City of Hialeah.

Attorney Kasdin explained that the Railroad subsidiary, Flagler Development, owns the property southwest of Medley, which they sought to annex, and the County allowed this to be excluded completely from Medley's application, and furthermore, it allowed it to exist as an enclave.

Attorney Kasdin pointed out that if the Rail Yard ceases to exist as a rail facility, there would be as much as 900,000 additional trucks on the County roads in order to carry the same freight. He said there was an understanding, FEC reached an agreement with the City, and he asked Council to honor this agreement. Now the risks are greater, because the Railroad is forced into a position of having to oppose the application, and a less contentious application is likely to have a better result for the City.

Attorney Kasdin thought there was more strength in Miami Springs and the FEC proceeding together. He respectfully asked the City Council to not include this language because it leaves the issue unresolved to the very end, and the FEC cannot accept it.

To answer Councilman Youngs' question, Attorney Kasdin stated that contiguity is one of many guidelines, and his feeling is that the application without the Rail Yard complies with the guidelines, and from the extensive discussion with the County Commissioners; the Railroad's position is well received.

Councilman Youngs was of the opinion that it is better to have contiguity than not. He asked what is the technical name of the County designation that the FEC Railroad is applying for.

Attorney Kasdin explained that the FEC is seeking recognition that critical County transportation resources should not be included in municipal boundaries.

Councilman Youngs said that discussions between the City and FEC began before the April 2003 Municipal Election. He asked why the FEC Railroad had not applied for this designation before this time.

Attorney Kasdin explained that they felt comfortable that their interests and needs were protected by virtue of the understanding with the City of Miami Springs, and they felt that no other action was needed.

Councilman Youngs said that the Railroad's representation to the City was that the FEC Railroad was seeking to obtain the designation of an area of critical County transportation.

Attorney Kasdin clarified that their position from the beginning was that the Hialeah Rail Yard is identified in the County's Comprehensive Development Master Plan as one of the critical transportation facilities in the County. As such, it is recognized as a critical resource to the economy and viability of the entire County.

Attorney Kasdin said that there was an understanding after a series of meetings and discussions, and that understanding was presented to the City Council, and everyone was in agreement, and the only thing that happened, was that the City received incorrect advice.

Attorney Kasdin explained that within the last two weeks, FEC realized that the City of Miami Springs is changing their position, and as a result, they will go to the County to seek protection. He added that he does not think it serves anybody's interest for this issue to go forward to the County with each municipality taking a different position, including Virginia Gardens, Miami Springs, the Railroad, Doral, and Medley. There is more strength in two of the parties coming to an agreement and presenting it to the County.

Councilman Elza felt that there must be cooperation on both sides, and the City's proposal leaves the door open for further discussions and concessions between the City and the FEC Railroad. He said that it is imperative to move ahead with the annexation plan, including the Railroad. Councilman Elza did not feel that the City is backing out of any previous discussion, and the City Attorney's amendment to the legal description certainly provides for many ways to come to a resolution going through the process.

Attorney Seiden stated that he has always disagreed with the proposition that this has to be resolved at the County Commission level. The County Commission set up the Boundary Commission Board and the Planning Board, and the City should make a representation to FEC based upon the discussions that the City would do everything possible to arrive at a decision in regard to this issue as quickly as possible.

Mayor Bain explained that he would like to proceed slowly, considering the residents' concern. He is not trying to stall the process, but he feels that Council is voting to proceed without adequate financial information.

Mayor Bain requested equal time to discuss the issue.

Councilman Elza stated that there was a motion and second on the floor, and if there are three prevailing votes, Council would be proceeding ahead with the annexation application.

The Mayor said that there is no question about the vote, but he did not want to vote tonight. He wanted to make it clear that the procedure is not as close as perceived, and there are many residents who do not know if the City should proceed with annexation.

Councilman Youngs explained that the initial financial information that was presented by The Corradino Group seemed to be favorable to Parcel "C", and the sections are being analyzed

separately in order to determine the projected revenues and expenditures. The other intangible is that the County will ask for mitigation of one to three mills off the top, and even if the City completes the annexation process with that particular land, it will depend on the amount of mitigation the County asks for, and that issue would come back to Council.

**On roll call vote, the motion carried 4-0.**

#### **9H) Appointment of Interim City Manager**

City Attorney Jan K. Seiden stated that currently H. Randall Dilling is the Acting City Manager/Chief of Police and because of the temporary absence of the City Manager, he is now the Acting City Manager, and it is up to Council whether or not to keep the status quo.

**Councilman Elza moved to appoint Acting Assistant City Manager/Chief of Police H. Randall Dilling as Interim City Manager. Councilman Pacheco seconded the motion.**

Mayor Bain asked Acting Assistant City Manager/Chief of Police H. Randall Dilling if he needed assistance.

Chief Dilling stated that he discussed the matter with his competent staff, and he is confident that the Police Administrators can handle the police business, in order to allow him to devote whatever time is needed for a temporary period of time in this position. At the present time, he has no intentions of making any appointments or changes in staff.

Councilman Elza asked how the City would manage without a Chief Building Official.

Chief Dilling explained that arrangements were made for a temporary Building Official who will fill the position until a City Manager is in place, and someone permanent is appointed to fill the position.

City Planner Richard Ventura stated that Salvatore Annese is a contracted employee who agreed to fill the position of Acting Building Official on a temporary basis, but he is not interested in accepting the position permanently.

**The motion carried 4-0 on roll call vote.**

Councilman Elza asked if Council should now consider a salary increase for the Chief of Police on a pro-rated basis while he also performs the duties of Interim City Manager.

Human Resources Director Loretta Boucher explained that Chief Dilling currently receives an increase of 7% for the position of Acting Assistant City Manager, and now it would be Council's decision to compensate him for the position of Interim City Manager with a flat amount, or a percentage until the position is filled.

Ms. Boucher clarified that the former Interim City Manager/Building Official received a flat fee, and the same thing could apply to Chief Dilling, with no change in benefits.

**Councilman Elza moved to increase the salary by \$10,000 for the Chief of Police, on a pro-rated basis, while he performs the duties of Interim City Manager, with no change in benefits. Councilman Youngs seconded the motion, which carried 4-0 on roll call vote.**

Council gave direction to Interim City Manager/Chief of Police H. Randall Dilling to be prepared to go over the background information, and materials for proposed City Manager Dennis Kelly at the next meeting.

**9I) Recommendation that City Approve the Second Lowest Bidder for Phase I of a Lighting Project on the Curtiss parkway Pedestrian/Bike Path**

Public Services Director Denise Yoezle stated that at the October 13, 2003 Council meeting a contract was awarded to Better Way Electric, and since that time, they have been unable to produce the required bonds in order to conduct business with the City.

Ms. Yoezle explained that the second lowest bidder has met the bonding requirements and is prepared to start the job. She requested Council approval of an expenditure of \$45,499.00 to award the bid to the second lowest bidder, Computer Electric.

Ms. Yoezle stated that the additional cost would be \$7,339.00, and the new contracted price plus the low-bid price on the bollard light fixtures of \$21,690.00 brings the project total to \$67,189.00. There is a difference of \$10,189.00, and funds are available in the Public Properties Division and in the Streets Division.

Ms. Yoezle added that the \$10,000 could also qualify for funding from the Local Option Gas Tax funds. She believes that considering the \$57,000 grant, that this is a very economical project for the City.

**Councilman Elza moved to award the bid to the second lowest bidder, Computer Electric, in the amount of \$45,499.00. Councilman Youngs seconded the motion.**

Ms. Yoezle pointed out that Computer Electric is a Miami Springs business with a good reputation.

To answer Councilman Pacheco's question, Ms. Yoezle said that using the Local Option Gas Tax funds would not negatively impact other projects.

**On roll call vote the motion carried unanimously.**

**10. New Business:**

**10A) Appointment to the Board of Adjustment by Councilman Elza (Group I) for a Full 3-year Term Ending on October 31, 2006**

Councilman Elza (Group I) **reappointed** Ariana Fajardo to the Board of Adjustment for a full three-year term ending on October 31, 2006.

**10B) Recommendation that Council Waive the Competitive Bid Process as Provided by Section 31.11 (E) (6) (c) in the City Code, and Approve an Expenditure of, not to Exceed \$38,000.00, to In Rem Solutions, Inc., of Boca Raton, with Regard to Grant Writing Services**

City Planner Richard Ventura stated that this is a recommendation to initiate a contract with In Rem Solutions, Inc., of Boca Raton, Florida for grant writing services in an amount not to exceed \$38,000.00.

Mr. Ventura listed the following areas of priority:

- General economic development of the City and Downtown Revitalization
- Downtown Parking
- Infrastructure development and support (i.e. sidewalks, lighting, landscaping)
- Infrastructure modifications (traffic calming, & design, relief of congestion)
- Rebuilding water and sewer as well as other infrastructure
- Gymnasium and emergency shelter
- Police and related facilities

Mr. Ventura explained that he was attracted to In Rem Solutions by the fact that they have ongoing contracts with several municipalities in the State, including Miami Lakes, Bay Harbor Islands, the Village of Tequesta and Bay Harbor Islands, Boca Raton, Fort Pierce, Jupiter, Pembroke Pines and Sanibel. In addition, they previously assisted the City with the grant application for the Canal Street Linear Park, which scored very highly with the Department of Environmental Protection.

To answer Councilman Elza's question, Mr. Ventura clarified that the former grant writer received \$30,000 plus commission.

Buzz Fleischman of 810 Pinecrest Drive asked what was the reason for waiving the competitive bidding process. He questioned if there was anyone else in the City that could write grants.

Mr. Ventura stated that he wrote two grants, including one from the Metropolitan Planning Organization to provide funding for transportation related studies, and was awarded \$20,000 with a 20% cash match requirement. He added that with the assistance of Public Services Director Denise Yoezle, he wrote a grant for Transportation Enhancement Program to provide bike path lighting.

To answer the question at hand, Mr. Ventura said that there were two other grant writing proposals and one was from a Jacksonville company totaling \$65,000, and Florida Atlantic University

submitted a lower bid for \$34,000, however they do not have familiarity with the types of grants the City would be pursuing. He feels that In Rem Solutions provides the best value for the investment.

Mr. Fleischmann could not understand why the City is spending \$38,000 for grant writing services.

Mr. Ventura said that grant writing is extremely competitive and a good portion of the work involved is the field work in the community to find out what grants are available, initiating contact with various agencies and maintaining ongoing, positive relationships. The process would result in the completion of a written document explaining why the City is the best candidate for the grant.

To answer Councilman Youngs' question, Mr. Ventura stated that, in his opinion, In Rem Solutions is more favorable than Florida Atlantic University (FAU). He explained that only the Professor of Public Administration would have represented the City, and most of his experience was related to non-profit, social work related programs, and he did not have any municipal experience.

Mr. Ventura said that In Rem Solutions has municipal experience in Miami-Dade County, and he is recommending them because he feels the City would be getting a good value for the investment.

Attorney Seiden suggested that the contract would be for a one-year term, subject to his review, and it should have a cancellation provision, because the new City Manager might recommend someone else to the City.

Mayor Bain asked Mr. Ventura how he arrived at his recommendation for grant writing services because it seems that local vendors were not given an opportunity.

Mr. Ventura stated that Florida Atlantic University (FAU) approached the City, since the City had been working with Florida International University (FIU) on a revitalization study. The gentleman from FAU proposed his grant writing services, and the previous administration was dissatisfied with Mr. Adams. He added that he found himself doing a lot of the footwork to meet last minute deadlines because of Mr. Adams.

Mr. Ventura explained that he was impressed with In Rem Solutions with the way they handled the work process on the Canal Street Park grant, and they are more appealing than any of the other candidates that he considered.

Attorney Seiden clarified that the City did not advertise for grant writing services, and the Staff conducted their own investigation.

Councilman Elza felt that the decision should be tabled until the new City Manager is hired.

Councilman Pacheco agreed with Councilman Elza, and added that the City Attorney should review the contract.

Councilman Elza added that Downtown Administrator Octavien Spanner is covering many of the same issues involving grants, and he could not understand spending another \$38,000 in addition to

Mr. Spanner's compensation. He would like Council to address this matter at some time in the future.

To answer Councilman Youngs' question, Mr. Ventura explained the main focus would be on planning related grants, and Mr. Spanner could share the responsibilities with In Rem Solutions. He added that there are other grants related to Parks and Recreation, and the Police Department that In Rem Solutions would be qualified to handle.

**Councilman Elza moved to table the grant writing services item until such time as the new City Manager is hired. Councilman Youngs seconded the motion, which carried 4-0 on roll call vote.**

#### **10C) Discussion Pertaining to Miami Springs Family Festival (Farmers Market) and Request for Council Approval of the Sponsorship Agreement with The Market Company**

Downtown Administrator Octavien Spanner requested Council approval of the Market Company Sponsorship Agreement for this year's Farmers Market, which was introduced last year as a pilot project to attract more people to the Downtown area.

Mr. Spanner said that the Farmers Market was conducted on a weekly basis, and this year the plan is to promote the event as a Family Festival that would take place at the triangular lawn in front of the Miami Springs Golf and Country Club. He explained that the new location would allow more space, reduce traffic problems, and promote Golf Course activities.

Mr. Spanner stated that the sponsorship agreement with The Market Company does not have any financial implications, and it is their responsibility to obtain the vendors and organize the event. He said that the Administrator of The Market Company provided an informational packet outlining the planned activities for Miami Springs and events they have sponsored in other communities.

Mr. Spanner felt that by holding the event on a monthly basis it would attract more people, and allow more time to promote the activities and the Golf Course.

Mr. Michael Vita, Administrator for The Market Company, 428 Espanola Way, Miami Beach, presented a brief outline of the planned activities and those organizations that have been asked to participate in the new Miami Springs Family Festival. The proposed dates are December 13, 2003, January 17, February 14, March 20, and April 17, 2004.

Mr. Vita explained the focus would be on arts and crafts, vegetables, flowers, plants, and other related Farmers Market items. They would like to have participation this year from every non-profit organization that is connected with the City of Miami Springs, and also arts organizations that are seeking exposure.

Mr. Vita listed the various organizations that would participate in each of the planned events that would be held at Christmastime, Valentine's Day, the first day of spring, and Easter. He discussed

the reasoning behind holding the event on a monthly basis and for the change of location.

Councilman Elza was of the opinion that the previous Farmers Market that was sponsored by the Chamber of Commerce was not successful, and he found that last year's Farmers Market, which was sponsored by The Market Company, did not offer any products except for plants and jewelry, and he was not impressed.

Councilman Elza was concerned about the Golf Course location and the parking availability, because the Golf Course parking lot is full on weekends.

Mr. Spanner stated that there is parking available at Blessed Trinity Catholic Church.

Councilman Elza pointed out that the Seventh Day Adventist Church worships on Saturday and it would not be fair to hold this event in front of the Church.

Mr. Spanner said that he accepted input from residents that identified the area in front of the Golf Course, and he agreed that parking would be an issue anywhere in the City. He explained that he met with Golf Course Manager Dan Bradley and the Rhodes Brothers to come to an agreement.

Councilman Elza explained that the new location at the Golf Course would not benefit the downtown businesses on the Circle or Westward Drive.

Mr. Spanner said that the beginning of the Façade Improvement Program would involve eleven areas in the Downtown area that would be under construction, as well as Mr. Santana's property.

Councilman Elza suggested postponing the Farmers Market event for six months.

Councilman Youngs received input from many people who felt the Farmers Market should sell more fresh produce and less plants and arts and crafts. He would like a cost benefit analysis before entering into a contract for another year because the focus should be on promoting interest in the downtown area businesses. Councilman Youngs felt that the promotion of the Farmers Market as a family festival is a good idea, but he is concerned about the cost benefit.

Mr. Spanner responded that the cost would be \$12,000 for the six-month period, and a grant request was submitted in the amount of \$7,500.00. He is confident that the City would receive the total amount of the grant, but there is no confirmation at this time.

To answer Councilman Youngs' question, Mr. Spanner felt that most of the businesses were very satisfied with The Farmers Market. He would like to avoid waiting six months, as suggested by Councilman Elza.

Discussion ensued regarding how the Façade Improvement construction would affect the businesses and the Farmers Market.

Mr. Spanner discussed some of the problems related to last year's Farmers Market.

Mr. Vita explained that the Farmers Market needs vendors, the vendors need people and they need consistency. The Market moved around last year, which he felt was detrimental. It has been proven in other areas that a Farmers Market does help business. He said that Miami Springs should have a Family Festival whether they have a market or not, because there are many non-profit organizations in the City that would participate.

Councilman Elza stated that he would like to table the item for six months and reconsider it in February or March 2004. He does not believe that the Farmers Market benefits the Downtown businesses in any way, and the only people that benefit are the vendors.

Councilman Youngs suggested that the request could be postponed until the next meeting, pending a survey of the businesses and receiving public input about holding a Family Festival.

Mayor Bain added that the location should be re-evaluated.

Mr. Spanner said that in his discussions with The Rhodes Brothers, he offered them the exclusive right to sell food and beverages instead of having other food vendors competing with the Golf Course.

Mr. Spanner was of the opinion that the Farmers Market is like any business that needs more than one year to make a profit. He said that the only negative comment about last year's Farmers Market was concerning the produce.

Councilman Elza explained that the same vendors participated every week last year, and they did not attract very many people. He thinks that before authorizing \$12,000, there must be a guarantee as to how many vendors will participate, and that they will sell a variety of merchandise.

Councilman Elza agreed with Councilman Youngs that before proceeding, there should be a survey from the businesses to see how they feel about the Farmers Market. He thinks the Golf Course is not the proper location, because there is not enough parking, and it would interfere with the Seventh Day Adventist Church, and the Golf Course events.

**Councilman Youngs moved to table the Sponsorship Agreement with The Market Company and Councilman Elza seconded the motion. On roll call vote, the motion carried 4-0.**

**Council requested a report describing how the Farmers Market helped the business community last year.**

## **11. Golf Course Items:**

None.

## **12. Other Business:**

None.

## **13. Reports & Recommendations:**

### **13A) City Attorney**

None.

### **13B) City Manager**

#### **13B1) FDLE Police Officer Certification Process Update - Chief of Police H. Randall Dilling**

Acting Assistant City Manager/Chief of Police H. Randall Dilling presented a memorandum regarding his passing score on the Statewide FDLE Police Officer Certification examination.

### **13C) City Council**

Councilman Elza requested and Council agreed to discuss the issue about the Golf Course Bond Referendum.

Councilman Youngs stated that Finance Director Charles G. Marshall could put out the financial information about the bond proposal, and what it might do. The City is prohibited from taking a side, but it can offer information, and Council needs a draft of what that might be.

Councilman Elza asked if the information could be advertised in the newspaper, because the general public has no idea what the issue is really about.

City Attorney Jan K. Seiden said that he was not sure about a paid political advertisement. He said that the City could place the information on the website or in a pamphlet with the utility bills, or any non-sponsoring activity.

Councilman Elza stated that there might not be any restrictions as to how many times the ballot question can be published and it could be run every week in the newspaper.

Mayor Bain suggested looking at the previous format and what was done in the past.

City Attorney Jan K. Seiden clarified that the City is allowed to give information to educate the

citizenry on the pros and cons of the issue.

Finance Director Charles G. Marshall stated that he spoke with the investment banker who informed him that the City could not spend any funds to take any side. He explained that the investment banker has the expertise and offered to work with the City. Mr. Marshall offered to call him in the morning, have the information before noon and send it to Council in the afternoon.

Councilman Elza felt that the legal ad should be published in the Gazette and any other newspaper that goes to the citizens of Miami Springs every week before the election.

City Clerk Magalí Valls stated that the ballot question must be published the fifth and third weeks before the election according to the law, and this has been done. The notices were placed in the El Nuevo Herald, The Miami Herald, the River Cities Gazette, and the Miami Daily Business Review.

Councilman Elza felt that most people read the River Cities Gazette or the Miami Herald Neighbors, and the City should try to publish the legal ad as much as possible to make the people aware of the election on November 18, 2003, and what the issue is about.

Attorney Seiden said that he would rather have the Finance Director check with the bond counsel to see if the legal ad could be published to give more notice than is legally required.

Mayor Bain asked for a motion calling for the bond people to determine if it is okay to advertise.

**Councilman Elza moved to direct the Finance Director to contact the bond counsel to see if the City is allowed to publish ads in the River Cities Gazette and the Miami Herald Neighbors on a regular basis between now and the election date. Councilman Pacheco seconded the motion.**

Attorney Seiden said that Mr. Marshall might be able to find out more information regarding a pamphlet or some other means of advertising.

Councilman Youngs said that if Mr. Marshall finds out that the City is allowed to publish something pro or con on the bond refinancing, it behooves the City to have the residents make a good choice by having as many people turn out as possible, and Mr. Marshall has permission to take this official notice and put it in the water bill.

Mayor Bain stated that the notice must be generic and state the facts about the issue.

Attorney Seiden said that if Mr. Marshall receives permission, Council must authorize him to include information in the utility bill.

Councilman Pacheco questioned if there is enough time to put the information in the water bill.

Mr. Marshall thought that there would be enough time to distribute the information to all the residents in the utility bills before the election.

**On roll call vote, the motion was unanimously carried.**

### **High School Construction**

Councilman Elza stated that he received a copy of the Martin Marquez letter to The Miami Herald, and a copy of a letter from Carl Terenzio concerning the Education Advisory Board and the fact that they are considering the addition of more seats for the Senior High School. He said that he also has a memorandum from Mayor Bain to the Education Advisory Board members advising them to meet with Principal Doug Rodriguez and Access Center III Superintendent Carol Cortes concerning the High School.

Councilman Elza referred to information that was disseminated by Education Advisory Board member Sandy Witt. He said that the City Council adopted a resolution stating that they were opposed to adding more seats or construction at the school, and he did not understand why the Education Advisory Board is re-addressing the matter.

Councilman Elza read the Mayor's Memorandum to the Education Advisory Board dated October 8, 2003, regarding his meeting with Principal Doug Rodriguez and Carol Cortes to discuss items of mutual interest. He said that Mr. Rodriguez and Ms. Cortes requested that the Education Advisory Board Meeting of October 15, 2003 be rescheduled to October 21, 2003, and that the members should be prepared with suggestions on issues that take into consideration the best interests of the City.

Mayor Bain stated that he only asked the Education Advisory Board members to accommodate Mr. Rodriguez and Ms. Cortes by rescheduling the meeting for October 21, 2003. He said that he did not make any policy decisions, and he only accommodated the Principal and Superintendent because they are trying to correct the inadequacies of the school that has not been renovated for many years.

The Mayor said that he believes that the County and City representatives have failed, and that is the reason the school is in poor condition. He is only trying to make the school better for the students and he is not asking to construct an addition to the school.

Mayor Bain explained that he asked Sandy Witt to find out the facts, and he was only trying to come up with a proposal for the City to present to the School Board, instead of the School Board presenting their proposal to the City.

Councilman Youngs clarified that the Education Advisory Board is an advisory board to the City Council and since that meeting, he spoke with Principal Doug Rodriguez and Access Center III Superintendent Carol Cortes, and he will be meeting with her to discuss a few issues.

Councilman Youngs said that the proposal came from Principal Rodriguez and Carol Cortes, and not the Mayor or the Education Advisory Board members. He felt it was unfortunate that Carol Cortes approached the Mayor who was not aware of the resolution.

Mayor Bain added that he was also not aware of the \$3.5MM that was allocated for the renovation of the school three years ago, and it is a failure that nothing has been done.

Councilman Youngs said that the Education Advisory Board members do not have the authority to initiate an investigation or represent the City by conducting meetings with public officials. He explained that Sandy Witt is a newly appointed member to the board and she was not aware of the position that was taken by the City Council. Councilman Youngs felt that it was a good faith effort that went wrong, and he defended the Mayor's actions.

Councilman Youngs stated that the discussion between Principal Doug Rodriguez, Carol Cortes and Mayor Bain was proper and in good faith. He said that the Education Advisory Board members were discussing a topic that was not directed from Council to the Board, regarding an issue that was defeated after several years of discussion.

Councilman Youngs suggested that it would be better not to jump to conclusions, but to go back to the facts and determine what actually happened.

Mayor Bain explained that he only arranged the rescheduling of the meeting so that both Mr. Rodriguez and Ms. Cortes could attend, and he did not discuss substance. He added that Ms. Cortes is trying to help the school, which does not even have a handicap accessible restroom.

The Mayor said that he and many of his family members attended the High School, there have not been any major renovations since 1966, and he would not apologize for stirring up discussion about cleaning and repairing the school.

Councilman Youngs commented that the \$3.5MM for renovations was tied to the \$25MM addition, up until a week ago, and since it is bond financed money, it could not be used for renovations, only new construction, and this was a misunderstanding.

Councilman Youngs explained that there was some promise that an addition at Miami Springs Senior High School would not slow down the search for a site and construction of a new school in South Hialeah, which is not true. He was told that if part of the \$25MM new construction money is used for Miami Springs Senior High School; there would be no additional funding for a new school.

Councilman Youngs said that Ms. Cortes stated that the \$3.5MM was not tied to the addition, and the City should ask the School Board why these funds have not been spent for the renovation of the High School. He suggested that Council should demand the renovations with the available funds.

**Councilman Youngs moved to adopt a resolution urging the Dade County School Board to immediately fund the refurbishing and repairs for Miami Springs Senior High School. Vice Mayor Elza seconded the motion, which carried 4-0 on roll call vote.**

Councilman Pacheco stated that the City Council gave the Education Advisory Board a clear mission two years ago. He suggested that Council should come back with a mission for the Board, or set a policy that they would not meet without direction from Council.

Mayor Bain felt that Council should appoint members who best represent the City Council. He commended Sandy Witt for gathering information, even though everyone may not agree with the issues that were raised. The Mayor said that the board members are dedicated to their jobs, and they should not be condemned.

Councilman Youngs added that Sandy Witt felt attacked at the meeting, even though she acted in good faith by acquiring the information.

#### **14. Adjourn.**

There being no further business to be discussed the meeting was adjourned at 10:30 p.m.

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Billy Bain  
Mayor

**ATTEST:**

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Magalí Valls, CMC  
City Clerk

Approved as written during meeting of: 11/24/2003

Transcription assistance provided by S. Hitaffer

Words ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.